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Paper No.

CAMPBELL STEPHENSON LLP
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BLDG. H, SUITE 250
AUSTIN TX 78758

COPY MAILED
DEC 11 2008

In re Application of :
Joshi et al. :
Application No. 10/609,363 : LETTER REGARDING
Filed: June 27, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. VRT0010C1US :

This is in response to the "COMMENT ON PTA CALCULATION," filed July 24, 2008. Pursuant to their duty of candor and good faith to the Office, applicants disclose that the initial determination of patent term adjustment at the time of the mailing of the notice of allowance of five hundred twenty-nine (529) days is incorrect.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred sixty-three (**463**) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 24, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 529 days. Applicants note that a Request for Continued Examination (RCE) was filed on May 21, 2007 (received in the Office on May 25, 2007).

A review of the record confirms that in response to the final Office action mailed December 20, 2006, applicants did not file an RCE until May 25, 2007, three months and 66 days later. 37 CFR 1.704(b) provides that:

With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

The filing of the RCE on May 25, 2007 constituted a failure to engage within the meaning of 37 CFR 1.704(b). For which, a period of reduction of 66 days, counting the number of days in the period beginning on March 21, 2007, the day after the date that is three months after the date of mailing of the final Office action, and ending on May 25, 2007, the date of filing of the RCE, should have been entered. It is noted that as stated in 37 CFR 1.703(f), "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Thus, the date of receipt and not of mailing of the RCE is properly used for purposes of calculating the patent term adjustment.

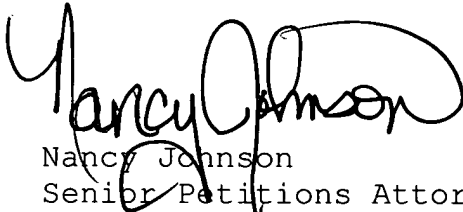
Given entry of the additional 66 day period of reduction, the correct initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is four hundred sixty-three (463) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks Applicants

for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded and the period is not consumed by the request for continued examination).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with the first name "Nancy" and last name "Johnson" clearly distinguishable.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Wednesday

Date: 12/10/2008

Time: 17:45:13

PALM INTRANET**PTA Calculations for Application: 10/609363**

| | | | |
|--------------------------|------------|-------------------------|-----|
| Application Filing Date: | 06/27/2003 | PTO Delay (PTO): | 654 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 125 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 463 |
| PTO Delay Adjustment: | -66 | | |

File Contents History

| Number | Date | Contents Description | PTO | APPL | START |
|--------|------------|---|-----|------|-------|
| 63 | 12/10/2008 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 66 | |
| 49 | 04/24/2008 | MAIL NOTICE OF ALLOWANCE | | | |
| 48 | 04/24/2008 | ISSUE REVISION COMPLETED | | | |
| 47 | 04/24/2008 | DOCUMENT VERIFICATION | | | |
| 46 | 04/24/2008 | EXAMINER'S AMENDMENT COMMUNICATION | | | |
| 45 | 04/24/2008 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 44 | 03/28/2008 | NOTICE OF ALLOWABILITY | | | |
| 40 | 01/18/2008 | DATE FORWARDED TO EXAMINER | | | |
| 39 | 12/28/2007 | RESPONSE AFTER NON-FINAL ACTION | | 91 | 37 |
| 38 | 12/28/2007 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 37 | 06/28/2007 | MAIL NON-FINAL REJECTION | | | |
| 36 | 06/22/2007 | NON-FINAL REJECTION | | | |
| 35 | 06/05/2007 | DATE FORWARDED TO EXAMINER | | | |
| 34 | 05/25/2007 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE | | | |
| 33 | 06/05/2007 | DATE FORWARDED TO EXAMINER | | | |
| 32 | 05/25/2007 | REQUEST FOR CONTINUED EXAMINATION (RCE) | | | |
| 31 | 06/05/2007 | DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA) | | | |
| 30 | 05/25/2007 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 29 | 05/25/2007 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 28 | 12/20/2006 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 27 | 12/18/2006 | FINAL REJECTION | | | |

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|------|------------|--|-----|----|----|
| 26 | 10/23/2006 | DATE FORWARDED TO EXAMINER | | | |
| 25 | 10/16/2006 | RESPONSE AFTER NON-FINAL ACTION | | 28 | 22 |
| 24 | 10/04/2006 | MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT | | | |
| 23 | 10/04/2006 | DATE FORWARDED TO EXAMINER | | | |
| 22.1 | 09/18/2006 | INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION | | | |
| 22 | 09/18/2006 | RESPONSE AFTER NON-FINAL ACTION | | 6 | 21 |
| 21 | 06/12/2006 | MAIL NON-FINAL REJECTION | 654 | | -1 |
| 20 | 06/06/2006 | NON-FINAL REJECTION | | | |
| 19 | 11/18/2004 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 18 | 05/02/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 17 | 03/09/2006 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 16 | 07/15/2005 | MISCELLANEOUS INCOMING LETTER | | | |
| 15 | 01/28/2005 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 14 | 01/28/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 13 | 11/18/2004 | REFERENCE CAPTURE ON IDS | | | |
| 12.7 | 11/18/2004 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 12 | 11/18/2004 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 11 | 06/27/2003 | PRELIMINARY AMENDMENT | | | |
| 10 | 04/08/2004 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 9 | 04/07/2004 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 8 | 09/24/2003 | APPLICATION RETURN FROM OIPE | | | |
| 7 | 09/24/2003 | APPLICATION RETURN TO OIPE | | | |
| 6 | 09/24/2003 | APPLICATION DISPATCHED FROM OIPE | | | |
| 5 | 09/24/2003 | APPLICATION IS NOW COMPLETE | | | |
| 4 | 09/03/2003 | CASE CLASSIFIED BY OIPE | | | |
| 3 | 09/03/2003 | CLEARED BY OIPE CSR | | | |
| 2 | 08/07/2003 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 06/27/2003 | INITIAL EXAM TEAM NN | | | |

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EXPLANATION OF PTA CALCULATION

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